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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,626	03/18/2002	Peter Wilhelm Koenig	3960.010	7229
7590	03/31/2004		EXAMINER	
STEPHAN A. PENDORF PENDORF & CUTLIFF 5111 MEMORIAL HIGHWAY TAMPA, FL 33634-7356			HOOLAHAN, AMANDA J	
			ART UNIT	PAPER NUMBER
			2859	

DATE MAILED: 03/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/088,626	KOENIG ET AL. <i>AN</i>
	Examiner	Art Unit
	Amanda J Hoolahan	2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 15 March 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 13-24 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 13-24 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                        |                                                                             |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____                                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|                                                                                                                        | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 13-22 are finally rejected under 35 U.S.C. 102(b) as being unpatentable by USPN 5,058,525 to Rilling.

Rilling discloses a supply meter (20) for liquid or gaseous medium or electric current, with a display device (28) for displaying the amount of the medium which has passed through the supply meter, which displays with a cumulative meter reading the entire amount consumed to date and makes possible the production of the verification code, thereby characterized, that the verification code display device is mechanically linked with the drive means (38) for the consumed-amount display device (30) via a gear connection means (36) and that the translation relationship between the drive means and the verification code display device is freely selectable depending on the construction design of the gear connection means (column 3, lines 31-34); the verification code provided by the verification code display device is a product of the position of the consumed-amount display device, the setting of the verification code display device when the consumed-amount display device was in the zero or start position (column 4, lines 36-38), and the translation relationship between the gear and the verification code display device; the verification code display device is a rotating body (column 3, lines 22-37); the verification code display device is a rotating display (34); the verification code display device is a disk display

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(30); the verification code display device displays a verification code (42) for the cumulative meter reading; the verification code display device is fixed or set in the zero position of the supply meter display device, in order to generate a portion of the device number; the verification code display device displays, encoded, the cumulative meter reading and device specific data of the supply meter; the device specific data there is displayed the device number and/or device type (60); verification code display device displays the verification code in the form of letters, characters, numbers, or symbols (32).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 23-24 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Rilling in view of USPN 1,607,512 to Churcher.

Rilling discloses the device as described above in paragraph 2 including a cover (24) provided over the display surface of the verification code display device.

Rilling does not disclose the cover being operable by means of a mechanical push button that is cushioned.

Churcher discloses a cover being operable by means of a mechanical push button (4) that is cushioned. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to replace the means to operate the cover (26), as taught by

Rilling, with the mechanical push button, as taught by Churcher, in order for access to the display device to be simpler and easier to operate because of less parts.

***Response to Arguments***

5. Applicant's arguments filed March 15, 2004 have been fully considered but they are not persuasive.
6. In response to applicant's argument that the Rilling reference achieves the same task but in a different manner, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). Rilling clearly points out the same structural elements and features that the Applicant is claiming. See description above.
7. In response that Rilling does not have a relationship between the drive means and the verification code display device: Rilling discloses having a gear train including at least one gear associated with each of the dials (column 3, lines 25-26). Therefore, there clearly is a translation relationship between the drive means and the verification code display device, otherwise the verification code display device would not ever move and thus be inoperable.

8. In response to Applicant's argument that the relationship between the drive means and the verification code display device is not "freely selectable" in Rilling: This argument is not persuasive because as stated above in paragraph 2, column 2, lines 31-34 of Rilling clearly proves that the relationship is "freely selectable" by the user depending on the construction design of the device.

9. In response to Applicant's argument about the relationship between the drive means and the verification code display device: This argument is not persuasive because the Applicant never clearly defines the relationship of the gear connection means, drive means, and the verification code display device. Claim 1 simply states that it is freely selectable "depending upon the construction design of the gear connection means." In order to clearly define the relationship between the drive means and verification code display device via gear connection means, the Applicant should state what the construction design of the gear connection means really is.

### *Conclusion*

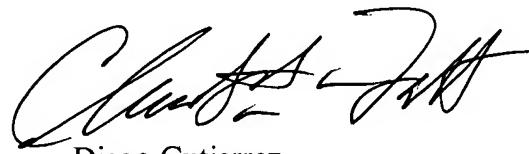
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amanda J Hoolahan whose telephone number is (571) 272-2246. The examiner can normally be reached on Monday through Friday 8:00 am to 4:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ajh  
March 29, 2004



Diego Gutierrez  
Supervisory Patent Examiner  
Technology Center 2800

**CHRISTOPHER W. FULTON  
PRIMARY EXAMINER**